

REMARKSStatus of the Application

Claims 1-14 are pending. Claims 1-14 stand rejected.

Section 102 Rejections

Claims 1-5, 11 and 13 have been rejected under 35 U.S.C. Section 102 as being anticipated by Munroe U.S. Patent No. 3,799,382. Applicant respectfully disagrees for at least the following reason. Claim 1 requires "layers of vertically stacked product containers", which Munroe does not disclose, contrary to the Examiner's assertion. Instead, the Munroe articles 45 are arranged in stacked relation on the upper deck 16 of the pallet with the tray members 40 sandwiched between. (Col. 3, lines 23-25). In other words, claim 1 requires that the product containers be stacked directly on top of each other so that container bottoms are in contact with container tops, whereas Munroe teaches a tray "vacuum formed" member 40 disposed between the articles 45 (e.g., see Munroe Fig. 3).

In further response, applicant has amended claim 1 to make this distinction even clearer. Amended claim 1 now explicitly requires that "the product containers [be] stacked directly on top of each other so that the container bottoms are in contact with the container tops." This limitation is supported in the specification as originally filed at paragraphs 10, 28 and Figures 1-4. As explained above, Munroe does not teach or suggest a system in which product containers are stacked directly on top of each other so that the container bottoms are in contact with the container tops. For at least this reason, applicant respectfully submits that amended claim 1 and its dependent claims 2-14 are distinguishable from Munroe.

Section 103 Rejections

The Examiner rejected claims 6-9 under 35 U.S.C. Section 103(a) as being unpatentable over Munroe in view of Lehr et al. U.S. Patent No. 3,961,707. Applicant submits that claims 6-9 are allowable over Munroe in view of Lehr et al. for at least the same reason that amended claim 1 is not anticipated by Munroe.

Claim 10 is rejected under 35 U.S.C. Section 103(a) as being unpatentable over Munroe in view of Frysinger et al. U.S. Patent No. 5,647,284. Applicant submits that claim 10 is allowable over Munroe in view of Frysinger et al. for at least the same reason that amended claim 1 is not anticipated by Munroe. In further response, applicant submits that it is impossible to make Munroe's trays out of Frysinger's corrugated board because Munroe's plastic trays have "vacuum formed" cavities 44 whose shape cannot be duplicated in corrugated board..

Claim 12 is rejected under 35 U.S.C. Section 103(a) as being unpatentable over Munroe in view of Garbe Jr. U.S. Patent No. 3,627,122. Applicant submits that claim 12 is allowable for at least the same reason that amended claim 1 is not anticipated by Munroe.

Claim 14 is rejected under 35 U.S.C. Section 103(a) as being unpatentable over Shapiro U.S. Patent No. 3,039,881 in view of Munroe. Applicant submits that claim 14 is allowable for at least the same reason that amended claim 1 is not anticipated by Munroe.

In further response, applicant notes that stacking the "containers" of Shapiro directly on top of one another as amended claim 1 requires would make the Shapiro packaging system unsuitable for its intended purpose, since the ice cream cones would most likely break under their own weight.

New Claims

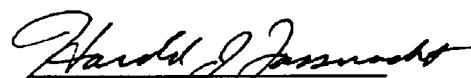
New claim 15 is dependent on claim 14 and includes the further limitation that "the product container tops have a raised peripheral edge and the bottoms of the product containers nest inside the tops of the product containers." This limitation is supported in the specification as filed in Figures 1-4, which show the product container bottoms nested within product container tops having a raised peripheral edge.

New claim 16 is dependent on claim 1 and includes the further limitation that the corner openings capture the vertical support posts on all sides. This limitation, found in the figures, is significant because it enables the trays to secure the support posts in a vertical position without the need for the channel portions 32 of Munroe, banding, or any other securing means.

Summary

It is believed that this paper constitutes a complete response to the Office Action mailed April 6, 2005, and an early and favorable action allowing claims 1-16 is respectfully requested. The Examiner is invited to telephone applicant's undersigned attorney if any unresolved matters remain.

Respectfully submitted,


Harold J. Fassnacht
Reg. No. 35,507

CLAUSEN MILLER, P.C.
10 S. LaSalle Street - Suite 1600
Chicago, Illinois 60603
Telephone: 312-606-7674

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